



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

DEC 13 2016

Mr. Robert C. Burley, Head
Environmental Division
by direction of the Shipyard Commander
PNS Hazardous Waste Program Manager
Portsmouth Naval Shipyard
Seavey Island
Kittery, ME 03904

Re: **NOTICE OF VIOLATION** of the applicable Generators Standards of Hazardous Waste, Section 3002 of the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S. § 6622(a) and 6924(d) through (m), and the Maine Hazardous Waste Management Rules Chapters 850 – 860.

Dear Mr. Burley:

On June 6-9, 2016, the United States Environmental Protection Agency (EPA) conducted a Compliance Evaluation Inspection at Portsmouth Naval Shipyard ("PNS" or the "Facility") in Kittery, Maine. The purpose of this inspection was to determine the compliance of PNS, EPA ID No. ME7170022019, with the Maine Hazardous Waste Management Rules chapters 850 – 860 and the Federal Hazardous Waste Management Regulations found at 40 CFR Part 260-272. The State of Maine has been granted final authorization by EPA to administer certain portions of RCRA.

As a result of the inspection, EPA has determined that your Facility violated certain provisions of the Maine Hazardous Waste Management Rules and the RCRA regulations promulgated at 40 CFR Part 260 through Part 272. The specific violations are set forth below:

1. Failure to secure hazardous waste storage areas, as required by Chapter 851, Section 13(C)(7)(c)(i) of the Maine Hazardous Waste Management Rules, which incorporates by reference 40 C.F.R. 264.14.
 - a. Building H-1, Health Clinic, less-than 90-day hazardous waste storage area (HWAA # H1-2): Access door was unlocked when approached for inspection;
 - b. Building 300, Machine Shop less-than 90-day hazardous waste storage area: The area was not closed off from the rest of the shop. General access by unauthorized personnel was not restricted; and

- c. Building 60 less-than 90-day hazardous waste storage areas (HWAA 60-1 and 60-2): Neither area had any means to limit access by unauthorized personnel.

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility provided proof that steps have been undertaken to address items a through c, above.]

2. Failure to label universal waste batteries with the words "Universal Waste-Batteries", "Waste Batteries", or "Used Batteries, as required by Chapter 850, Section 4A(14), which references 40 C.F.R. 273.34 (a).

- a. The Building H-1, Health Clinic, less-than 90-day hazardous waste storage area (HWAA # H1-2) had a container of batteries labeled "Lead Acid Batteries, intact, non-regulated."

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility provided proof that this discrepancy had been corrected.]

3. Failure to label or mark clearly each containers of hazardous waste with the words "hazardous waste," as required by Chapter 851, Section 8(B)(3) of the Maine Hazardous Waste Management rules.

- a. The H-1, Health Clinic, less-than 90-day hazardous waste storage area (HWAA # H1-2) had a container labeled "Empty Container, Flammable." This container had liquid content.

[Note: The inspection team observed the Electroplating Area. The waste produced from the plating operation is poured down a sink in the area that is plumbed to an approximately 60-gallon container. This container is emptied at the end of every shift. According to MEDEP policy, such "Day Cans" are allowed but must be labeled with the words "hazardous waste."

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility provided proof that this discrepancy had been corrected.]

4. Failure to keep containers of hazardous waste closed, as required by Chapter 851, Section 8(B)(2), which references Chapter 855 Section 9(C) of the Maine Hazardous Waste Management Rules, which incorporates by reference 40 C.F.R. 265.173(a).

- a. The container located in Building 357, Health Clinic, less-than 90-day hazardous waste storage area (HWAA # H1-2) labeled "Empty Container, Flammable" also had a large punctured opening in its lid.

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility did not discuss how it will ensure that hazardous waste containers remain closed when wastes are not being added or removed.]

5. Failure to maintain and operate a facility in order to minimize the possibility of a fire, explosion or any unplanned sudden release of hazardous wastes, as required by Chapter 851, Section 8B(5), which references 40 C.F.R. 264.31.
 - a. The Building 60 less-than 90-day hazardous waste storage area (HWAA # 60-1) had a 14-gallon plastic tote that was closed with the tote's plastic lid. The tote contained waste paint contaminated material. A very strong solvent odor was being released into the immediate area from this container; and
 - b. The Building 20 less-than 90-day hazardous waste storage area contained several lidded, plastic tote containers. The seals afforded by the tote lids were not sufficient to prevent the release of a strong solvent odor into the immediate area.

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility provided proof that actions have been undertaken to address these discrepancies.]

6. Failure to maintain satellite accumulation areas at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, as required by Chapter 851, Section 8C.
 - a. Building 20 3rd Floor Laboratory Area: There were multiple containers of various wastes from multiple pieces of laboratory equipment and/or processes that were being stored in one general area outside of the laboratory complex. In total, there were 33 containers in this general, separate area outside of the laboratory complex. The Facility considers the general area to constitute two distinct satellite accumulation areas. None of the containers were stored at or near their individual points of generation.

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility indicated that the ".... laboratory has approximately 25 satellite accumulation points tied to analytical equipment. All accumulation points are located in five adjacent rooms on the same floor." The Facility further claims that the federal government and state rules do not provide guidance on how "accumulation inspections are documented" and that "the shipyard divides these accumulation points into two groups for purposes of administering and documenting inspections." Finally, "the shipyard adopted this approach in 1995 and had been reviewed numerous times by the EPA and MEDEP."

EPA understands that the Facility wishes to streamline the inspection and inspection documentation process, nevertheless, the federal and state rules clearly require that satellite accumulation area containers must be located at or near their point of generation. EPA concurs that the laboratory rooms are within close proximity to each other and to this general waste accumulation area. Accordingly, for some of the waste containers originating from the closest laboratory(s), the "at or near" requirement was met. However, for the generation points furthest from this general waste accumulation area, this requirement is not met.]

7. Failure to post "No Smoking" signs at all HWSAs storing ignitable waste, as required by Rule 851 Section 13(C)(7)(c)(ii), which references 40 CFR 264.17(a).
- a. Building H-1, Health Clinic, less-than 90-day hazardous waste storage area (HWAA # H1-2) contained, at minimum, ignitable/flammable hazardous wastes but was not posted with a "No Smoking" sign.

[Corrective Action Taken: In an inspection follow-up letter from Portsmouth Naval Shipyard dated 8/15/2016, the Facility provided proof that the sign had been installed.]

Immediately upon receipt of this NOTICE:

Portsmouth Naval Shipyard must address the requirements set forth above and must immediately begin and continue to operate in compliance with all applicable Federal and State regulations.

Within (30) thirty calendar days of receipt of this NOTICE, submit a written description with supporting photographic evidence of the actions taken to address violations four and six, above.

Submit the information to:

Susann D. Nachmann, Environmental Engineer
U.S. Environmental Protection Agency
Office of Environmental Stewardship (OES05-4)
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

Failure to correct the violations, as required by this **NOTICE** may subject Portsmouth Naval Shipyard to further Federal enforcement action, including an assessment of penalties, pursuant to Section 3008 of RCRA, 42 U.S.C. § 692. If you have any questions regarding this NOTICE, please contact Susann Nachmann or my staff at 617-918-1871.

Sincerely,



Mary Jane O'Donnell
Manager, RCRA, EPCRA & Federal Programs Unit

cc: Susann D. Nachmann, EPA
Anne Fenn, EPA
Michael Hudson, MEDEP